



Department  
for Education

# **The Early Years Foundation Stage (EYFS) Learning and Development Requirements: Guidance on exemptions for individual children**

This guidance replaces those previously published by the DfE and QCDA.

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## Introduction

1. The Early Years Foundation Stage (EYFS) is a statutory framework<sup>1</sup> which sets the standards that all early years providers must meet to ensure that children from birth to age five develop well and are kept healthy and safe. This framework was extensively consulted upon and reviewed in 2010<sup>2</sup> so that the current 2012 framework is much slimmer and more focussed on what matters for a young child's personal development compared to the earlier framework. The framework is flexible enough to accommodate a range of good early years practice; however there may be instances where a family's religious or philosophical convictions cannot be reconciled with one or more of the learning and development requirements of the EYFS. For these cases there is a process available which enables early years providers to consider modifying or exempting one or more learning and development requirements for a child where their family requests this. This guidance explains how the process works and outlines the circumstances which must be met before providers can (if they chose) grant exemptions in respect of particular children.
2. The EYFS statutory framework sets both learning and development requirements, and safeguarding and welfare requirements. Exemptions are governed by the Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008 as amended in 2012<sup>3</sup>. The 2008 regulations, as amended by the 2012 regulations are referred to in this guidance as the Exemptions Regulations. The Exemptions Regulations provide in Part 3 for providers to determine, in respect of individual children, that the learning and development requirements set out in the EYFS are modified or do not apply. The Childcare Act 2006 does not allow for any exemptions from the safeguarding and welfare requirements of the EYFS.
3. "Must" is used in this Guidance to denote actions that are legally required under the 2008 regulations and "should" denotes actions that are expected or recommended by the Department but are not legal requirements.

## What exemptions are available for individual children?

4. In response to a request from a parent, an early years provider can decide, in respect of a particular young child, to modify or disapply individual learning and development requirements. Educational programmes can be modified but not disapplied. Early learning goals and assessment arrangements can be modified or disapplied, as set out in Part 3 of the Exemptions Regulations. This decision made by the provider is referred to as 'determining' an exemption.<sup>3</sup>
5. Exemptions, whether full or partial are granted by the provider for a period of up to 12 months. After this the provider and parent must review the exemption and

<sup>1</sup><http://www.education.gov.uk/childrenandyoungpeople/earlylearningandchildcare/delivery/education/a0068102/early-years-foundation-stage-eyfs>

<sup>2</sup><http://www.education.gov.uk/tickellreview>

<sup>3</sup> SI 2008/1743 as amended by the Early Years Foundation Stage (Exemptions from the Learning and Development Requirements) (Amendment) Regulations 2012 (SI 2012/2463)

[http://www.legislation.gov.uk/uksi/2008/1743/pdfs/ukxi\\_20081743\\_en.pdf](http://www.legislation.gov.uk/uksi/2008/1743/pdfs/ukxi_20081743_en.pdf) & <http://www.legislation.gov.uk/search?title=&year=2012&number=2463&type=ukxi>

then if appropriate, the parent must request a further exemption, again for a period not exceeding 12 months.

## Required circumstances

6. The Exemptions Regulations in Part 3 set out four circumstances that must be met before the early years provider can decide whether or not to grant full or partial exemptions in respect of an individual child:
  - a. the early years provider has received a written request for a determination from a parent of the child; ['determination' here means a decision from the provider to grant the requested exemption];
  - b. the application specifies any early learning goal, educational programme or assessment arrangement that should apply with modifications, or that should not apply, in respect of that child, and the reason why; [the early learning goals, educational programmes and assessment arrangements are all set out under Sections 1 and 2 of the EYFS Statutory Framework<sup>4</sup>];
  - c. the early years provider is satisfied that the parent of the child has **religious or philosophical convictions** which cannot be reconciled with one or more of the learning and development requirements; and
  - d. the early years provider has sought the views of the relevant local authority as to whether determination should be made.

## Guidance for Parents

7. 'Parent' is defined here as any individual who has parental responsibility for a child; or care of a child - this does not include a childminder.
8. In cases where parents do not live together, views of both parents including their religious or philosophical convictions should be provided, where possible.
9. The parent/s of the child must apply in writing to the early years provider whose setting their child attends or will attend, if they consider that the learning and development requirements (or elements of them) conflict with their religious or philosophical convictions.
10. The written request needs to detail:
  - i. any modifications (i.e. changes) that the parent/s want/s concerning one or more of the educational programmes of the EYFS;
  - ii. any modifications or exemptions (i.e. disapplications) from one or more early learning goal set out in the EYFS; and
  - iii. any modifications or exemption from any assessment arrangements set out in the EYFS.
11. When submitting their written request, parents should demonstrate how their religious or philosophical convictions cannot be reconciled with the learning

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<sup>4</sup><http://media.education.gov.uk/assets/files/pdf/e/eyfs%20statutory%20framework%20march%202012.pdf>

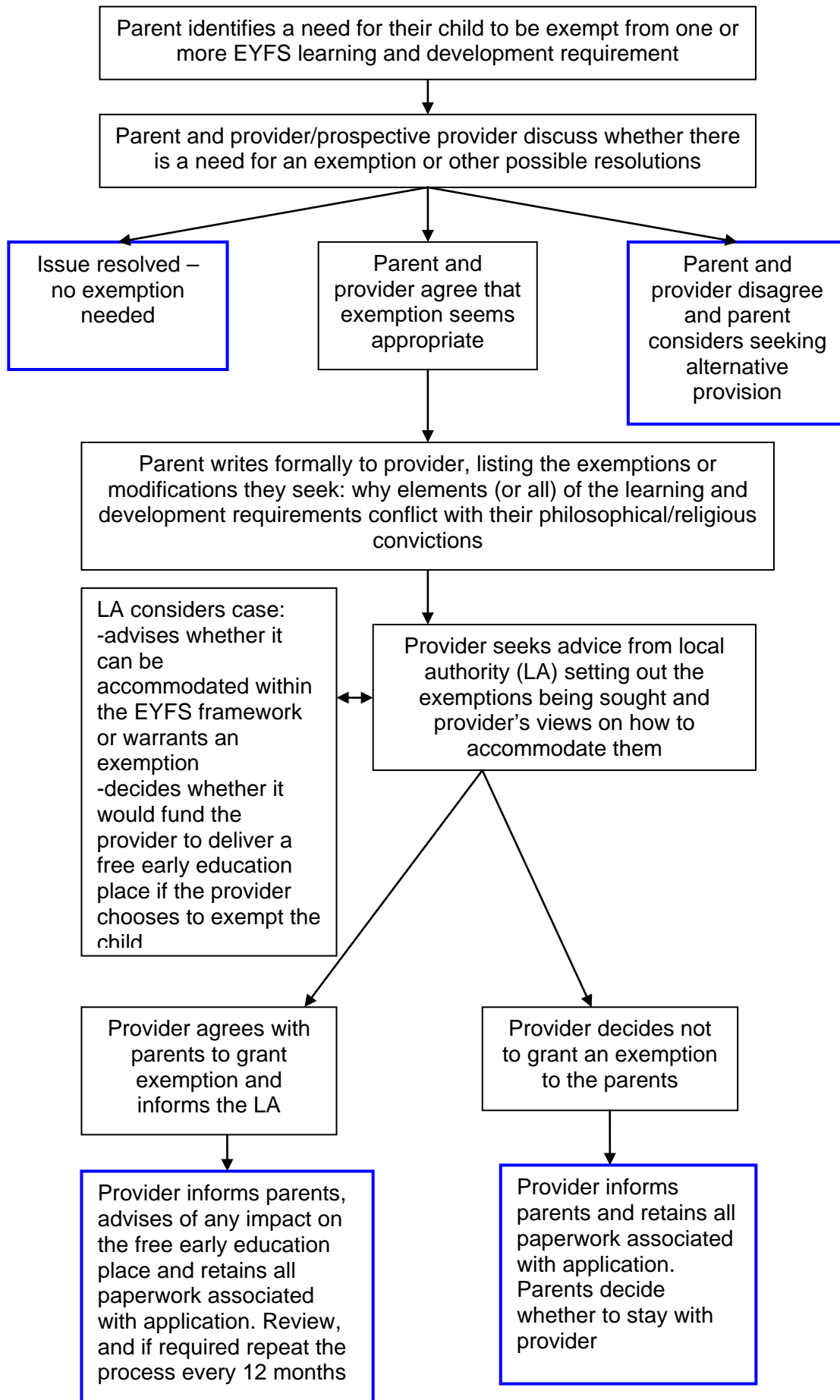
EYFS exemptions: Guidance in respect of an individual child and development requirements of the EYFS that they have specifically identified in their request.

12. Early years providers can only grant full or partial exemptions for **a maximum of 12 months** in respect of a particular child in their setting. At the end of 12 months, if a child still attends the same early years setting and their parent still considers an exemption is required, the parent should discuss this further with the provider. If after discussion, the parent still would like to seek a full or partial exemption, they would need to submit a new written request.
13. **The early years provider is not obliged to exempt a child.** Decisions on whether to grant exemptions are only made, after the early years provider has sought the views of the local authority.

## Process for parents

14. Parents should always talk to their provider / prospective provider before making an application. The EYFS is intended to accommodate a wide range of religious and philosophical convictions. Parents should also ask the provider if there would be any implications in respect of your child's entitlement to a free early education place.
15. If, after talking to their provider, a parent still wishes to pursue an exemption, then they need to apply to the provider **in writing**. Parents must include:
  - a list of the learning and development requirements (i.e. each educational programme, early learning goal, and/or assessment requirement) for which modification or exemption is being sought;
  - the reason why each of these conflicts with their philosophical or religious convictions; and
  - whether they are seeking a modification or exemption.
16. Upon receipt of the written request, providers will seek the local authority's views as to whether they think the provider should grant all or part of the exemption request. The provider will, if relevant, also check with the local authority if there are any implications in respect of your child's free early education place.
17. The provider may decide not to grant the request or only agree to part of it. There is no provision for a right of appeal against any decisions that the provider may make under the Exemptions Regulations.

## Process for exemption for an individual child



## Guidance for providers

18. Every parent has the right to participate in decisions about a child's care and education, even though the provider's main contact is likely to be the person with whom the child lives. Therefore providers must seek, where possible, consent from both parents in cases when parents do not live together.
19. If a parent applies for an exemption from elements of the EYFS requirements for an individual child, providers should check it comes within all the **circumstances** listed at a.-c. in paragraph 6. above and seek further information from parents as necessary.
20. If it does meet the circumstances listed in paragraph 6. providers must consult the local authority, in writing:
  - explaining why the exemption has been sought;
  - setting out their view on whether the exemption should be granted, including whether the parent's religious or philosophical convictions can be accommodated within the setting's practice if an exemption is granted; and
  - if relevant, whether granting an exemption would affect the child's free early education place.
21. Ultimately, it is for providers to make the final decision on whether or not to grant an exemption in the light of all the information available. If a provider decides to exempt a child, they must inform their local authority, detailing from which elements of the EYFS learning and development requirements exemptions or modifications have been granted, the nature of the exemption and the start and end date. Providers must also provide written confirmation to the parent. Providers can only grant exemptions for **a maximum of 12 months**. Parents may submit a new request for exemption at the end of this period.
22. Exemptions should be **backdated to start on the day that the parent submitted the written application**.
23. On inspection, the onus will be on providers to show Ofsted inspectors that any exemptions have been properly granted. Ofsted may ask to see:
  - the application letter from the child's parent, together with copies of any correspondence and notes of discussions with the parent about the exemption or modification/s requested; and
  - full records of the provider's consultation with the local authority, which would include:
    - copies of letters and notes of discussions with the local authority, as well as the notification of the local authority's decision;
    - the determination (i.e. decision to grant the exemption) made by the provider that exempts the child, stating the date on which the exemption began, the length of time for which the exemption has been granted; and
    - the specific early learning goals and or areas of learning and development that have been modified or exempted.

**NB: Ofsted will expect providers to demonstrate that their setting is able to meet the full requirements of the EYFS, regardless of any exemptions in respect of particular children.**

## Guidance for local authorities

24. The local authority must be notified and consulted by the early years providers if a request for an exemption from the EYFS learning and development requirements is made by a parent to a early years provider or prospective provider.
25. The local authority should consider all exemption requests carefully. In the majority of cases, the parents' religious or philosophical convictions can likely be accommodated within the EYFS without the need for an exemption, and the local authority should actively look for ways to do this and advise the provider accordingly in writing.
26. The local authority should be aware, and should make providers aware, that exemptions for individual children may only be granted to resolve a conflict with parents' religious or philosophical convictions. Exemptions may not be granted because of other circumstances affecting the child, such as a special educational needs or disabilities. In such circumstances the provider, with support from the local authority as appropriate, must accommodate the needs of the child and ensure he or she receives the full benefit of the EYFS.
27. The local authority should check the parent's request relates to the learning and development requirements set out in the EYFS Statutory framework in Sections 1 and 2 and not a Safeguarding and Welfare requirement, as the latter cannot be exempted.
28. If the local authority agrees to an exemption, they should inform the provider.

## Funding delivery of free early education places

29. The local authority should inform the provider whether it would be willing to provide funding for a free early education place to the early years provider in respect of a fully or partially exempted child.
30. Local authorities determine which providers in their area should be funded to deliver free early education places for 3 and 4-year-olds. Section 7 of the Childcare Act 2006 and the *Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2008*<sup>5</sup> require local authorities to secure early years provision which delivers the EYFS, is not subject to an exemption and is available free of charge to each child of the relevant age in the area. Local authorities must take account of the *Statutory Guidance for Local Authorities on the Delivery of Free Early Education for Three and Four Year Olds and Securing Sufficient Childcare*<sup>6</sup> which makes clear that local authorities have discretion on whether to fund providers and whether to fund children with exemptions.

<sup>5</sup> [SI 2008/1724 http://www.legislation.gov.uk/ukxi/2008/1724/made](http://www.legislation.gov.uk/ukxi/2008/1724/made)

<sup>6</sup> <https://www.education.gov.uk/aboutdfe/statutory/g00209650/code-of-practice-for-las>



## Further Information

31. You can access relevant legislation here:

The Childcare Act 2006 <http://www.legislation.gov.uk/ukpga/2006/21/contents>

The Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008

<http://www.legislation.gov.uk/uksi/2008/1743/contents/made>

The Early Years Foundation Stage Statutory Framework – the revised framework introduced in 2012

<http://www.education.gov.uk/aboutdfe/advice/g00213120/eyfs-statutory-framework>

The Early Years Foundation Stage (Learning and Development Requirements) (Amendment) Order 2012

<http://www.legislation.gov.uk/uksi/2012/937/contents/made>

The Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2008

<http://www.legislation.gov.uk/uksi/2008/1724/contents/made>

Statutory Guidance for Local Authorities on the Delivery of Free Early Education for Three and Four Year Olds and Securing Sufficient Childcare - From September 2012

<https://www.education.gov.uk/publications/standard/EarlyYearseducationandchildcare/Page1/DFE-00066-2012>

Further information on the EYFS is available at:

<http://www.education.gov.uk/childrenandyoungpeople/earlylearningandchildcare/delivery/education/a0068102/early-years-foundation-stage-eyfs> .



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